

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	CASE NO. BK07-82148
)	
MERIT TRANSPORTATION COMPANY,)	CH. 11
LLC,)	
)	
Debtor(s).)	

ORDER

Hearing was held in Omaha, Nebraska, on November 19, 2007, regarding Filing No. 103, Motion for Relief from Stay, filed by Navistar Financial Corporation, and Filing No. 139, Resistance, filed by debtor. Norman Beal appeared for the debtor, Thalia Carroll appeared for the Official Unsecured Creditors' Committee, David Skalka appeared for Navistar Financial Corporation, Marty Weis appeared for Transport International Pool, Inc., and Henry Carriger appeared for the Internal Revenue Service.

During the hearing held on November 19, 2007, on the motion for relief from stay, both parties presented affidavit evidence concerning the estimated monthly depreciation per truck tractor. In a supplemental document filed by counsel for movant, Filing No. 146, it is estimated by movant that the monthly depreciation per unit is slightly more than the monthly payment due under the purchase contracts. Based on that, movant requests \$1,918.25 per unit per month, as adequate protection.

Debtor's evidence is that the units depreciate at approximately \$700 per month.

Neither party presented expert testimony on the issue, and neither presented detailed information on the current condition of the units, the mileage in total on each unit, or the mileage each unit adds per month. Therefore, since the evidence from both parties consists of estimates and speculation, I find that the monthly per unit depreciation is somewhere between \$700 and \$1,900. For the near future, I order debtor to pay \$1,300 per month per unit as adequate protection, with the first payment due on December 15, 2007, and on the same date in each of the following months.

IT IS ORDERED that the debtor shall pay \$1,300 per month per unit as adequate protection, with the first payment due on December 15, 2007, and on the same date in each of the following months. This order may be revisited no sooner than February 2008, if either party is able to present more detailed evidence of depreciation of the units in this fleet.

DATED: November 30, 2007

BY THE COURT:

/s/ Timothy J. Mahoney
Chief Judge

Notice given by the Court to:
Norman Beal
Thalia Carroll
*David Skalka
Marty Weis
Henry Carriger
U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.